

who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. The term does not include:

(i) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(ii) Any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;

(iii) Any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity:

(A) Concerns a debt which was originated by such person; or

(B) Concerns a debt which was not in default at the time it was obtained by such person; and

(iv) Any person engaged solely in enforcing a security interest.

(b) *Test to define larger participants.* A nonbank covered person is a larger participant of the consumer debt collection market if the nonbank covered person's annual receipts resulting from consumer debt collection are more than \$10 million.

[77 FR 65798, Oct. 31, 2012 as amended at 77 FR 72913, Dec. 7, 2012]

§ 1090.106 Student loan servicing market.

(a) *Market-related definitions.* As used in this subpart:

Account volume means the number of accounts with respect to which a nonbank covered person is considered to perform student loan servicing, calculated as follows:

(i) *Number of accounts.* A nonbank covered person has at least one account for each student or prior student with respect to whom the nonbank covered person performs student loan servicing. If a nonbank covered person is receiving separate fees for performing stu-

dent loan servicing with respect to a given student or prior student, the nonbank covered person has one account for each stream of fees to which the person is entitled.

(ii) *Time of measurement.* The number of accounts is counted as of December 31 of the prior calendar year.

(iii) *Affiliated companies.* (A) The account volume of a nonbank covered person is the sum of the number of accounts of that nonbank covered person and of any affiliated companies of that person.

(B) If two persons become affiliated companies, each person's number of accounts as of the prior calendar year's December 31 is included in the total account volume.

(C) If two affiliated companies cease to be affiliated companies, the number of accounts of each continues to be included in the other's account volume until the succeeding December 31.

Post-secondary education expenses means any of the expenses that are included as part of the cost of attendance of a student as defined in 20 U.S.C. 10871l.

Post-secondary education loan means a loan that is made, insured or guaranteed under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*) or that is extended to a consumer with the expectation that the funds extended will be used in whole or in part to pay post-secondary education expenses. A loan that is extended in order to refinance or consolidate a consumer's existing post-secondary education loans is also a post-secondary education loan. However, no loan under an open-end credit plan (as defined in Regulation Z, 12 CFR 1026.2(a)(20)) or loan that is secured by real property is a post-secondary education loan, regardless of the purpose for the loan.

Student loan servicing means:

(i)(A) Receiving any scheduled periodic payments from a borrower or notification of such payments and

(B) Applying payments to the borrower's account pursuant to the terms of the post-secondary education loan or of the contract governing the servicing;

(ii) During a period when no payment is required on a post-secondary education loan,

(A) Maintaining account records for the loan and

(B) Communicating with the borrower regarding the loan, on behalf of the loan's holder; or

(iii) Interactions with a borrower, including activities to help prevent default on obligations arising from post-secondary education loans, conducted to facilitate the activities described in paragraph (i) or (ii) of this definition.

(b) *Test to define larger participants.* A nonbank covered person that offers or provides student loan servicing is a larger participant of the student loan servicing market if the nonbank covered person's account volume exceeds one million.

[78 FR 73406, Dec. 6, 2013]

EFFECTIVE DATE NOTE: At 78 FR 73406, Dec. 6, 2013, § 1090.106 was added, effective Mar. 1, 2014.

PART 1091—PROCEDURAL RULE TO ESTABLISH SUPERVISORY AUTHORITY OVER CERTAIN NONBANK COVERED PERSONS BASED ON RISK DETERMINATION

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AUTHORITY: 12 U.S.C. 5512(b)(1), 5514(a)(1)(C), 5514(b)(7).

SOURCE: 78 FR 40375, July 3, 2013, unless otherwise noted.

Subpart A—General

§ 1091.100 Scope and purpose.

This part sets forth procedures to implement section 1024(a)(1)(C) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203 (12 U.S.C. 5514(a)(1)(C)) (Dodd-Frank Act), and establishes rules to facilitate the Bureau's supervisory authority over certain nonbank covered persons pursuant to section 1024(b)(7) of the Dodd-Frank Act (12 U.S.C. 5514(b)(7)).

§ 1091.101 Definitions.

For the purposes of this part, the following definitions apply:

Assistant Director means an Assistant Director for Supervision. If there is no Assistant Director, the Associate Director may designate an alternative Bureau employee to perform the functions of an Assistant Director under this part.

Associate Director means the Associate Director of the Bureau's Division of Supervision, Enforcement, and Fair Lending, or his or her designee. If there is no Associate Director, the Director may designate an alternative Bureau employee to perform the functions of the Associate Director under this part.

Bureau means the Bureau of Consumer Financial Protection.

Consumer means an individual or an agent, trustee, or representative acting on behalf of an individual.

Consumer financial product or service means any financial product or service, as defined in 12 U.S.C. 5481(15), that is described in one or more categories under:

(1) 12 U.S.C. 5481(15) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or